

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA

v.

No. 1:14-CR-306 - GBL

MANUEL ERNESTO PAIZ GUEVARA,
Defendant

MOTION FOR IMMEDIATE TENDER OF RULE 404 (B) MATERIALS

COMES NOW, MANUEL E. PAIZ GUEVARA, hereinafter referred to as defendant and files this, his Motion for Immediate Tender of Rule 404 (b) materials, and pursuant to rule 404 (B) of the Federal Rules of Evidence and the due process provisions and effective assistance of counsel provisions of the Fifth and Sixth Amendments of the Constitution of the United States, moves this Court to the United States to tender, immediately, information of all allegedly similar crimes, wrongs or acts allegedly committed by defendant on which it would rely or offer at trial to prove motive, scheme, opportunity, intent, preparation, plan, knowledge, identify, or absence of mistake or accident.

In support of the motion the defendant, through counsel, would allege and prove the following:

1. Defendant requests that this Court enter an order requiring the government to tender, immediately or within three weeks of order, the particulars of any “other crimes” evidence:
 - a. The dates, times, places and persons involved in said crimes, wrongs, or acts;
 - b. A detailed description of the alleged crimes, wrongs or acts;
 - c. The statements of each participant in the other alleged crimes, wrongs or acts;
 - d. *Brady v. Maryland*, 373 U.S. 83 (1963); *Kyles v. Whitley*, 514 U.S. 419 (1995) and *Giglio v. United States*, 405 U.S. 150 (1972) regarding and pertaining to the alleged crimes, wrongs, or acts;
 - e. All documents which contain evidence or which support occurrence and the participation of the defendant in the crimes, wrongs or acts, including a statement describing when the documents were prepared, by whom the documents were prepared, and who has had possession of the documents since the occurrence of the crimes, wrongs or acts; and,
 - f. A statement of the issue or issues to which such allegation have relevance under Rule 404 (B) of the Fed. R. Evid. 404 (b).

2. The request, is will be specifically noted, includes evidence the government intends to use, regardless of manner or fashion, including, but not limited to, cross-examination, rebuttal and/or its case in chief.
3. Rule 404 (b) requires reasonable notice in advance of trial of the general nature of such evidence, upon which the United States will rely at trial. While Rule 404 (b) provides neither a specific time of notice nor form of notice, the advisory committee notes to the 1991 amendment makes clear that the time and form of disclosure depends largely on the circumstances of the particular case.
4. To adequately permit the defense to investigate and prepare for trial, the defendant would seek immediate production of the requested Rule 404 (b) materials.

WHEREFORE, premises considered, defendant prays the above and foregoing be, in all things, granted.

Respectfully submitted,

MANUEL ERNESTO PAIZ GUEVARA

By: _____/S/_____

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned HEREBY CERTIFIES that the above and foregoing was electronically filed on July 23, 2015, with the Clerk of the Court using the CM/ECF system, to be served electronically upon counsel for all defendants and the Office of the United States Attorney for the Eastern District of Virginia, Alexandria Division.

/S/ David P. Baugh

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